

ORDINANCE NO. 696
2ND SERIES

AN ORDINANCE IMPLEMENTING A GAS ENERGY FRANCHISE FEE ON CENTERPOINT ENERGY MINNESOTA GAS (“CENTERPOINT ENERGY”) FOR PROVIDING GAS ENERGY SERVICE WITHIN THE CITY OF ALEXANDRIA

The City Council of the City of Alexandria, Minnesota, does **ORDAIN**:

SECTION I. That Section 8.03, Gas Franchise Fee, shall be added as a new section to Chapter 8 of the Alexandria City Code as follows:

Section 8.03 - Gas Franchise Fee

Subd. 1. **Definitions.** For the purposes of this Ordinance, the following terms shall have the following meanings:

- A. “City”. The City of Alexandria, County of Douglas, State of Minnesota.
- B. “Company”. CenterPoint Energy Minnesota Gas (“CenterPoint Energy”), its successors and assigns.
- C. “Franchise Agreement”. The franchise agreement between the City and Company pursuant to City Ordinance 695.
- D. “Gross Revenues”. All sums received by CenterPoint Energy from the sale of gas energy to its retail customers within the corporate limits of the City.
- E. “Notice”. Notice means a writing served by any party or parties on any other party or parties. Notice to Company shall be mailed to CenterPoint Energy, Minnesota Division Vice President, 800 LaSalle Avenue, Minneapolis, MN 55402. Notice to City shall be mailed to the City Clerk at Alexandria City Hall, 704 Broadway, Alexandria, MN 56308.

Subd. 2. **Purpose.** The Alexandria City Council has determined that it is in the best interest of the City to impose a franchise fee on those public utility companies that provide natural gas and electric services within the City. Pursuant to the Franchise Agreement the City has the right to impose a franchise fee on Company.

Subd. 3. **Franchise Fee Statement and Schedule.** During the ten (10) year term of the Franchise Agreement between CenterPoint Energy and the City, the City shall charge, and CenterPoint Energy shall pay a franchise fee of five percent (5%) of its Gross Revenues.

Franchise fees are to be collected by the Company and submitted to the City as follows:

- January – March collections due by April 30.
- April – June collections due by July 31.
- July – September collections due by October 31.
- October – December collections due by January 31.

Subd. 4. **Record Support for Payment.** The Company shall make each payment when due and, if requested by the City, shall provide a statement summarizing how the franchise fee payment was determined, including information showing any adjustments to the total made to account for any non-collectible accounts, refunds or error corrections. The Company shall permit the City, and its representatives, access to the Company’s records for the purpose of verifying such statements.

Subd. 5. **Payment Adjustments.** Payment to the City will be adjusted where the Company is unable to collect the franchise fee. This includes non-collectible accounts

Subd. 6. **Surcharge.** The City recognizes that the Minnesota Public Utilities Commission may allow the Company to add a surcharge to customer rates of city residents to reimburse the Company for the cost of the fee.

Subd. 7. **Dispute Resolution.** If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party shall notify the other party of the default and the desired remedy. The notification shall be written. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within 30 days of

the written notice, the parties may jointly select a mediator to facilitate further discussion. The parties will equally share the fees and expenses of this mediator. If a mediator is not used or if the parties are unable to resolve the dispute within 30 days after first meeting with the selected mediator, either party may commence an action in District Court to interpret and enforce this ordinance or for such other relief permitted by law.

Subd. 8. Effective Date of Franchise Fee. The effective date of this Ordinance shall be after its publication and ninety (90) days or more after sending written notice enclosing a copy of this adopted Ordinance to Company by certified mail. Collection of the fee shall commence as provided above. Collection of the existing franchise fee as defined in the City of Alexandria Ordinance No. 531, adopted on January 26, 2004 shall continue until such time as the second reading of this ordinance is passed and adopted.

Subd. 9 Relation to Franchise Agreement. This ordinance is enacted in compliance with the Franchise Agreement and shall be interpreted as such.

Subd. 10. Periodic Review. The City Council shall review this ordinance every two years in whatever manner the City Manager then determines to be appropriate, including, but not limited to, review by the City Council in either a work session or a regular session. Failure to review this ordinance shall not in any way invalidate or limit it.

Subd. 11. Permit Fees. The Company will administer the collection and payment of franchise fees to the City in lieu of permit fees, or other fees that may otherwise be imposed on the Company in relation to its operations as a public utility in the City so long as the following requirements are met:

- A. The Company applies for any and all permits, licenses and similar documentation as though this provision did not exist.
- B. The Company requests the fee to be waived at the time of application.

SECTION II. This Ordinance shall be in full force and effect from and after its passage and publication.

ADOPTED by the City Council of the City of Alexandria this 10th day of February, 2014, by the following vote:


YES: BATESOLE, THALMAN, MILLER, JENSEN

NO: NONE

ABSENT: BENSON

ATTEST:


Martin D. Schultz, City Administrator


Sara Carlson, Mayor